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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/530,823	11/18/2005	Nigel Cronin	040857/291037	7738
7590	09/13/2007			
Michael R. Reinemann Cesari and McKenna, LLP 88 Black Falcon Avenue Boston, MA 02210			EXAMINER VAN, QUANG T	
			ART UNIT 3742	PAPER NUMBER
			MAIL DATE 09/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/530,823	CRONIN, NIGEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Quang T. Van	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 July 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 08 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.                                     |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/8/05</u> .  | 6) <input type="checkbox"/> Other: _____.                         |

***Election/Restrictions***

1. Applicant's election without traverse of Group I (claims 1-11) in the reply filed on 7/27/2007 is acknowledged.

***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

***Specification***

3. The abstract of the disclosure is objected to because the legal phraseology such as "means" or "comprises" or "**comprising**" often used in patent claims should be avoided in the abstract. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 4-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaguine (US 4,446,874), cited by applicant, in view of Lewis et al (US 3,461,261).  
Vaguine discloses a microwave applicator (12) with decoupled input coupling and frequency tuning functions comprising a coaxial electrical input and a waveguide (40) filled with dielectric (56, 58, 46), an inner conductor (102) of the coaxial input extending longitudinally within one end (42) of the waveguide to launch microwaves mode to travel to the distal end face (44) of the waveguide so that microwaves are transmitted when

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the distal end face (44) is contacted by biological tissue to be treated. However, Vaguine does not disclose launching microwaves in the TM01 mode. Lewis discloses a microwave applicator launching microwaves in the TM01 mode (Figure 2, col. 3, lines 41-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Vaguine in the TM01 launching microwaves in the TM01 mode as taught by Lewis in order to improve transmitting microwave energy from one end to the other end.

6. Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vaguine (US 4,446,874), cited by applicant, in view of Lewis et al (US 3,461,261) and further in view of Potzl (US 3,065,752), also cited by applicant. Vaguine/Lewis disclose substantially all features of the claimed invention except the inner conductor is axially aligned with the waveguide. Potzl discloses an inner conductor (5) is axially aligned with the waveguide (1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize in Vaguine an inner conductor is axially aligned with the waveguide as taught by Potzl in order to guide to transmit the microwave energy.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang T. Van whose telephone number is 571-272-4789. The examiner can normally be reached on 8:00Am 5:00Pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*QV*

QV  
September 5, 2007

*Quang Van*

Quang T Van  
Primary Examiner  
Art Unit 3742